

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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VERNON OARD,

Plaintiff,

Hon. Paul L. Maloney

Case No. 1:17-cv-1136

v.

MUSKEGON COUNTY, et al.,

Defendants.

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**ORDER**

This matter is before the Court on continuing issues relating to plaintiff's motion to compel discovery. (ECF No. 22). Pursuant to the Court's September 26, 2018, order (ECF No. 34), defendants found certain responsive documents authored by Circuit Judge Timothy Hicks (Notice, ECF No. 45). These consist of a two-page memorandum from Judge Hicks to Chief Judge William Marietti, dated March 20, 2017, and seven pages of Judge Hicks's "confidential" notes. Defendants objected to the production of these documents, asserting the deliberative process privilege as to parts, and the work product doctrine as to the entire contents of them. (ECF No. 57). Plaintiff challenged the assertion of these objections. (ECF No. 60).

Defendants provided the Court, *ex parte*, with unredacted copies of the documents at issue for *in camera* review. These documents were marked with color-coded designations regarding both deliberative process privilege and work product. The Court has completed that review.

The Court conducted a status conference today, at which counsel for all parties appeared. (Minutes, ECF No. 66). Having considered the parties' oral and written submissions, including the documents provided for *in camera* review, the Court will sustain defendants' objections in part and overrule them in part. Accordingly,

**IT IS ORDERED** that defendants' assertion of the deliberative process privilege is sustained in its entirety, as evidenced by the yellow highlighted portions of the documents.

**IT IS FURTHER ORDERED** that defendants' assertion of work product is sustained in its entirety as to Judge Hicks's March 20, 2017, memorandum, and in part as to his "confidential" notes, as reflected in the green highlighting placed on the documents by the undersigned judicial officer; and it is otherwise overruled.

**IT IS FURTHER ORDERED** that counsel for defendants shall, within five days of the date of this Order, produce to counsel for plaintiff a redacted copy of Judge Hicks's "confidential" notes, consistent with the directions of this Court.

**IT IS SO ORDERED.**

Date: January 14, 2019

/s/ Phillip J. Green  
PHILLIP J. GREEN  
United States Magistrate Judge